

JacksonLewis

# CULINARY INSTITUTE OF AMERICA

## Investigations: Skills, Process & Report Writing

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April 22, 2022

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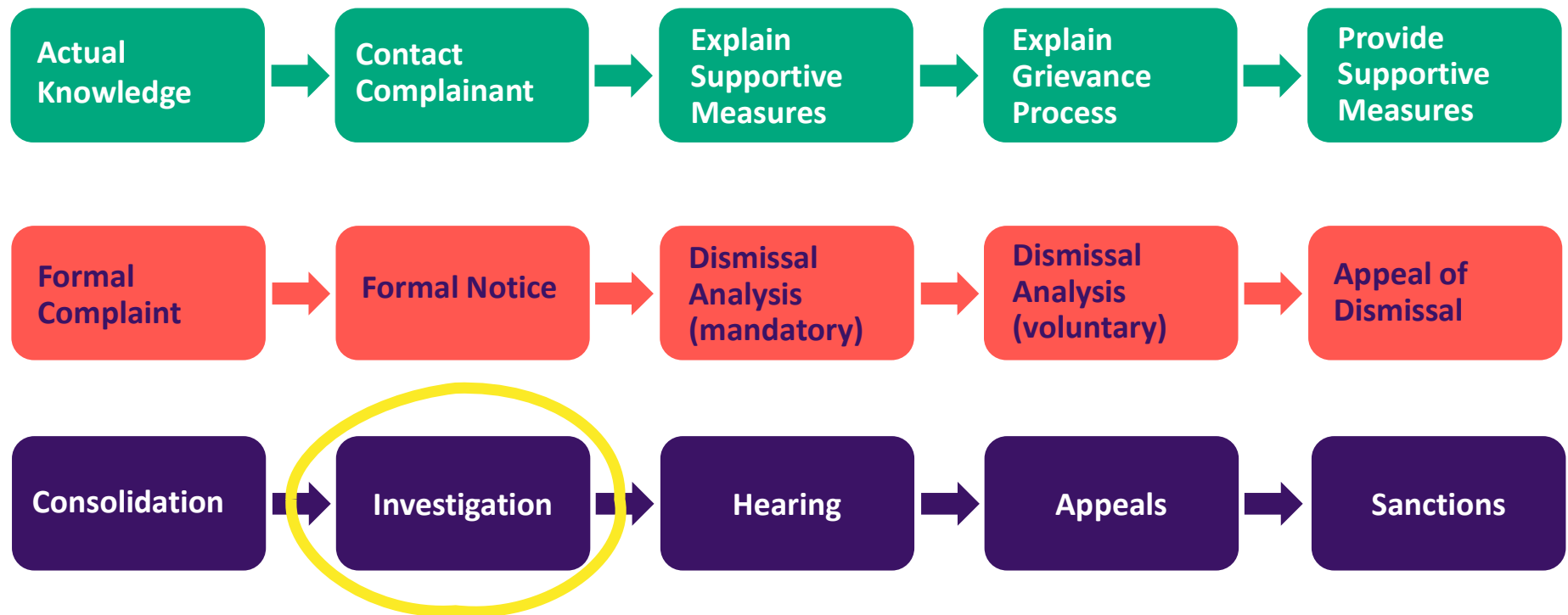
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# Agenda

- **Investigation Skills**
- **The Investigation Plan & Process**
- **Investigative Report Writing**

## Title IX Flow Chart



*Remember: A lot often happens before we reach an Investigation, try to keep the process cohesive and situate the Investigation within the larger process*

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# **Investigation Skills**

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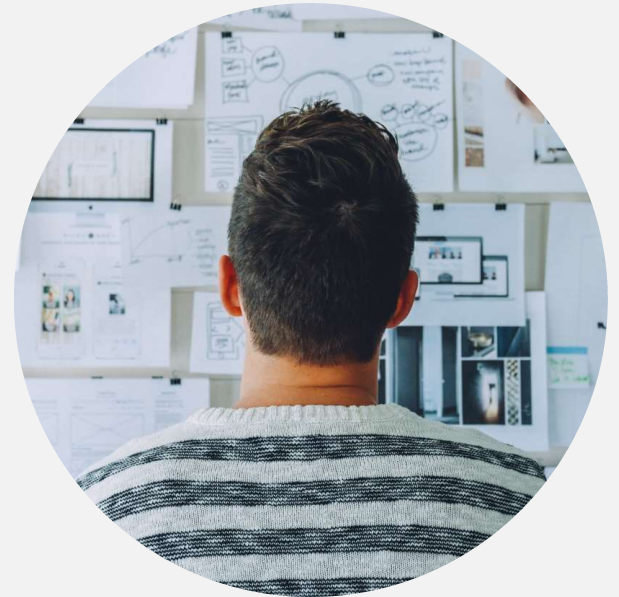
# Purpose of Investigation

To collect, sort, and summarize evidence

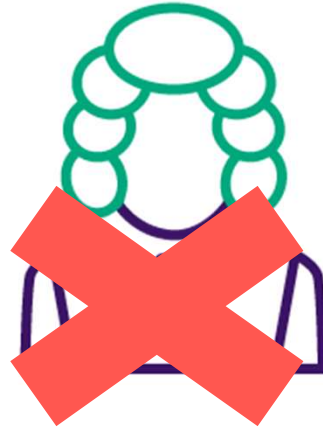
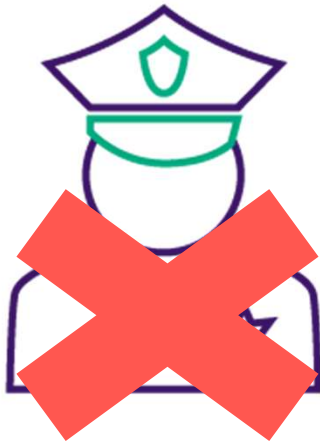
so  
that

the decision-maker can determine whether the Respondent should be held responsible for the alleged conduct

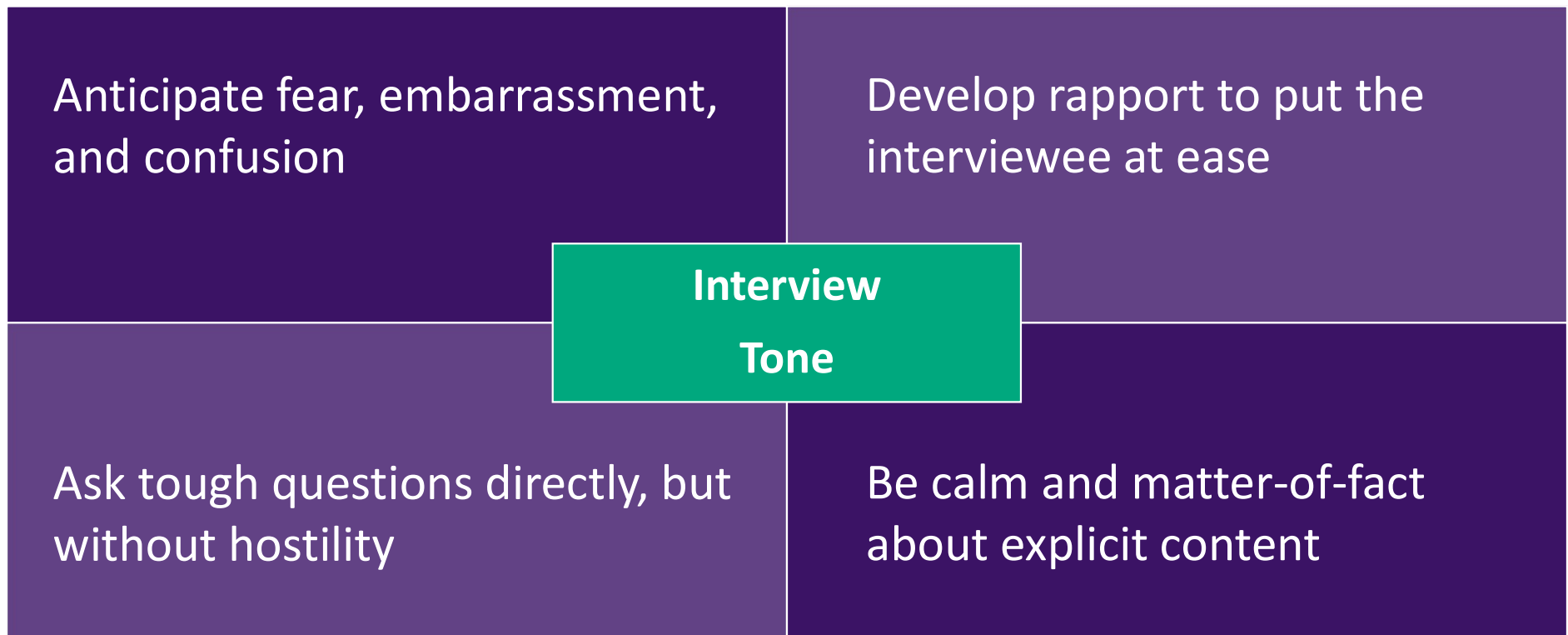
*Interviewing skills are an important and often overlooked aspect of the investigation process*



## Your Interviewing Persona: *Journalist*



# A Note on Tone Throughout the Investigation Process



# The Importance of Corroboration

**Corroboration  
=  
confirmation  
from another  
source**

**What  
information /  
source could  
confirm or rebut  
key aspects of a  
party's  
statement?**





# Critical Importance of Prohibited Conduct Definitions

- Whether the Respondent's conduct violated CIA policy is the central issue
- Relevant definitions should be referred to often and guide investigator and decision-maker actions



An abstract, colorful background composed of many small, overlapping shapes in various colors (red, blue, green, yellow, purple, etc.). Overlaid on this background are several colored arrows: a red curved arrow pointing from the top left towards the first text block, a blue straight arrow pointing from the top left towards the second text block, a purple curved arrow pointing from the top left towards the third text block, a yellow straight arrow pointing from the top left towards the fourth text block, and a red curved arrow pointing from the top left towards the fifth text block.

## **What do decision-makers need?**

*Use these to guide the investigation process*

Clear list of policy violations at issue based on alleged conduct

Clear sense of each party's narrative/perspective

Clarity on which facts are disputed and which facts are undisputed

Clear understanding of what evidence was collected and what evidence (if any) was unavailable

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# **The Investigation Plan & Process**

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# The Four Stages of an Investigation

## STAGE 1

### Plan

- ✓ Refresh on CIA procedures, policies, and values
- ✓ Create investigation plan, calendar, and log

## STAGE 2

### Collect Evidence

- ✓ Interview Complainant, Respondent, and other witnesses
- ✓ Collect other forms of evidence

## STAGE 3

### Sort Evidence

- ✓ Classify evidence as relevant, directly related, or not directly related
- ✓ Provide evidence to parties and consider their responses

## STAGE 4

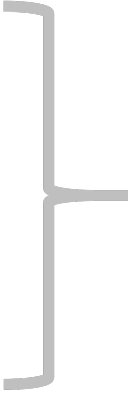
### Summarize Evidence

- ✓ Create report
- ✓ Provide report to parties and decision-makers

## Creating an Investigation Plan & Calendar

### Plan

- ✓ Review CIA procedures, policies, values
- ✓ Number of Complainants
- ✓ Number of Respondents
- ✓ Form(s) of misconduct
- ✓ Number of incidents
- ✓ Seriousness and complexity of case
- ✓ Estimated number of witnesses



Estimate time needed  
to complete collection and  
sorting of evidence

### Calendar

- +10 days (required) for parties to review & respond to evidence
- +10 days (required) for parties to review report prior to hearing
  - ✓ 15 days after receipt of final report under CIA Policy

Share tentative  
calendar with Title  
IX Coordinator to  
set target date for  
hearing

## Keeping an Investigation Log

- What:** A simple record of your investigatory activities, from the day you get the case until the day you send out the investigative report
- Where:** Your school's project management software or OneNote, Excel, or whatever program works for you
- Who:** Mostly just for your own reference, but this is a work document that could be viewed by others

What should  
be logged?

Formal Notices

Communications  
with Witnesses

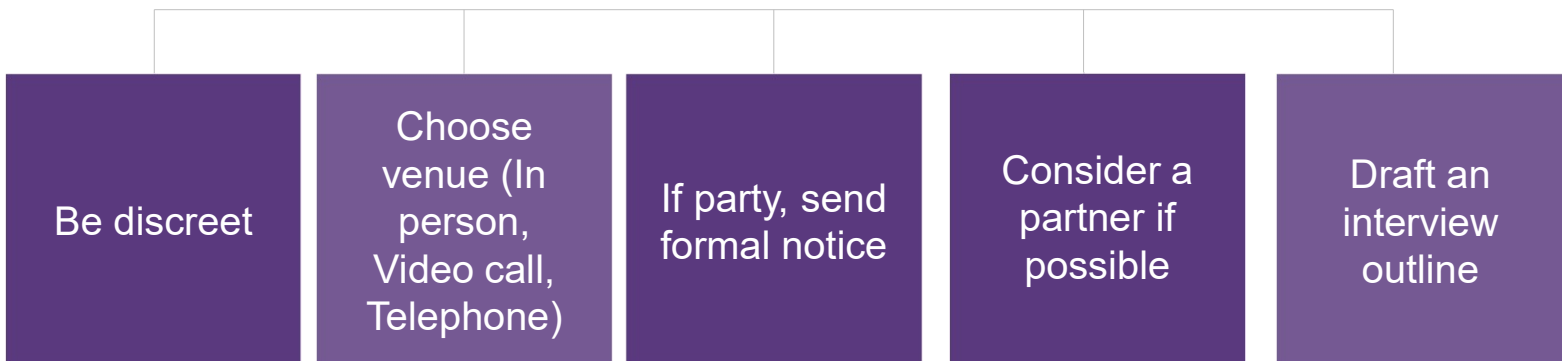
Receipt/Collection  
of Evidence

Meetings &  
Interviews

Delays

Unsuccessful  
Searches for  
Evidence

## Setting Up an Interview



## Your Interview Outline

- Enough detail to free your mind, but not an exact script
- List the information you need to convey
- Include the elements of the policy violation(s) and brainstorm questions to explore each one
- Think about what the hearing officers (decision-makers) would want or need to know



## List the Information You Need to Convey



Describe your role – neutral, objective, and just collecting information



Assure that no conclusions have been made and that decision-makers will decide



Discuss confidentiality and what will be shared with whom



Address importance of truthfulness and CIA's policy on false statements



Explain CIA's amnesty policy



Ask for documents and invite future follow up



Remind of prohibition against retaliation (both parties)

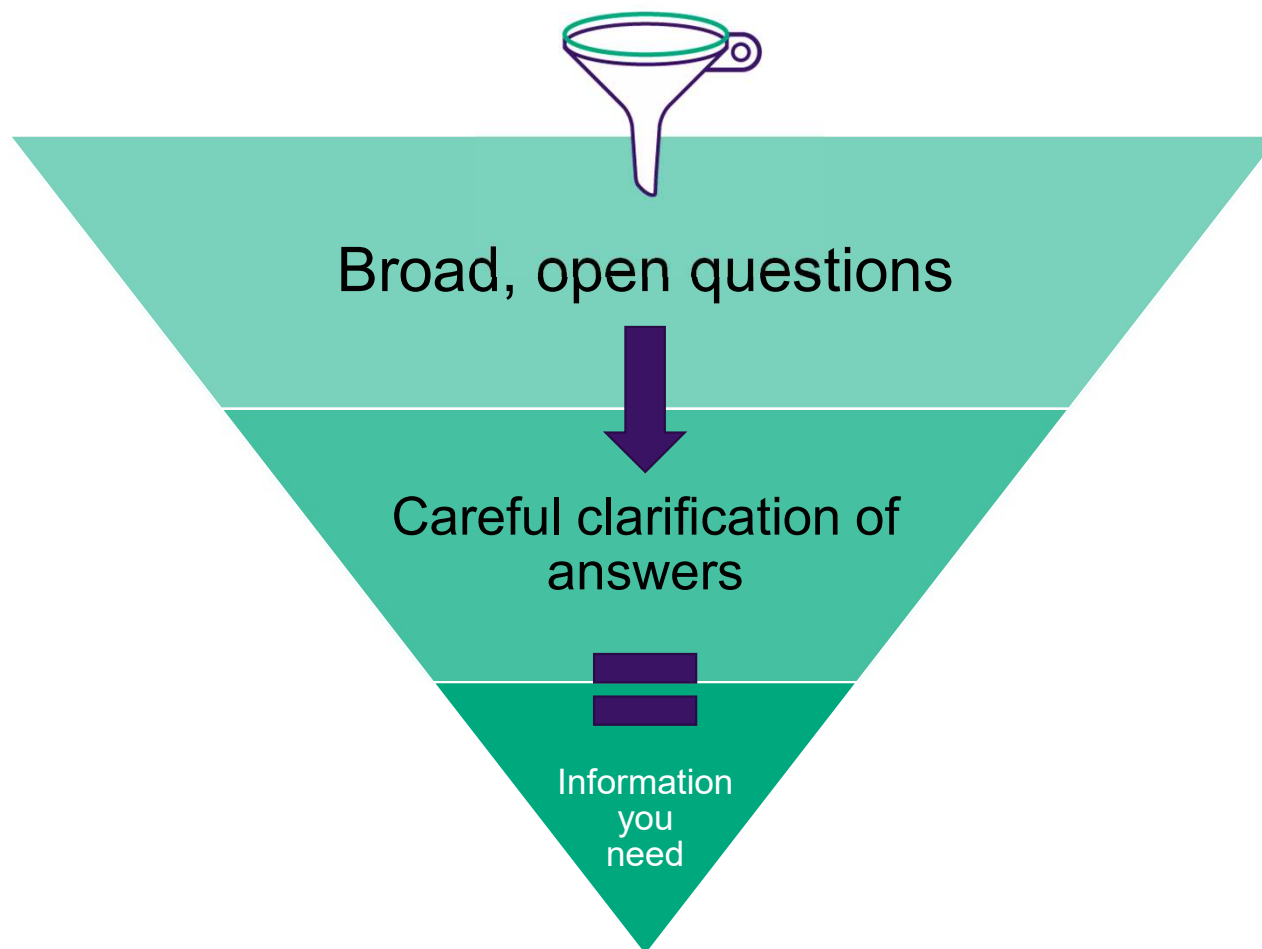


If party, remind of resources and support



Ask if the interviewee has questions and be prepared to answer common ones

## Asking Questions: The Interview Funnel



## Useful Open Questions

**Let's talk about** what you remember from that night...

**How** did you feel about...?

**What** did you do after...?

**What** happened next?

**What** did you mean when you said...?

You mentioned that... can you **tell me more** about that?

**How** did you become involved in...?

**What** is your understanding of...?

## How to Ask Questions



Ask how interviewee is defining words

You said the Respondent acted “crazy.” In what sense?

Push beyond euphemisms

When you said you could tell that the Complainant “wanted to get with” you, what did you mean by that?

“Exhaust” each topic

Is there anything we haven’t covered about the time in the park that you think would be helpful for me to know?

# From Oral Interview to Written Document

## Notes v. Transcription

- ☐ Two-person team
- ☐ Voice-to-Text Technology

## The Write Up – Some Recommendations

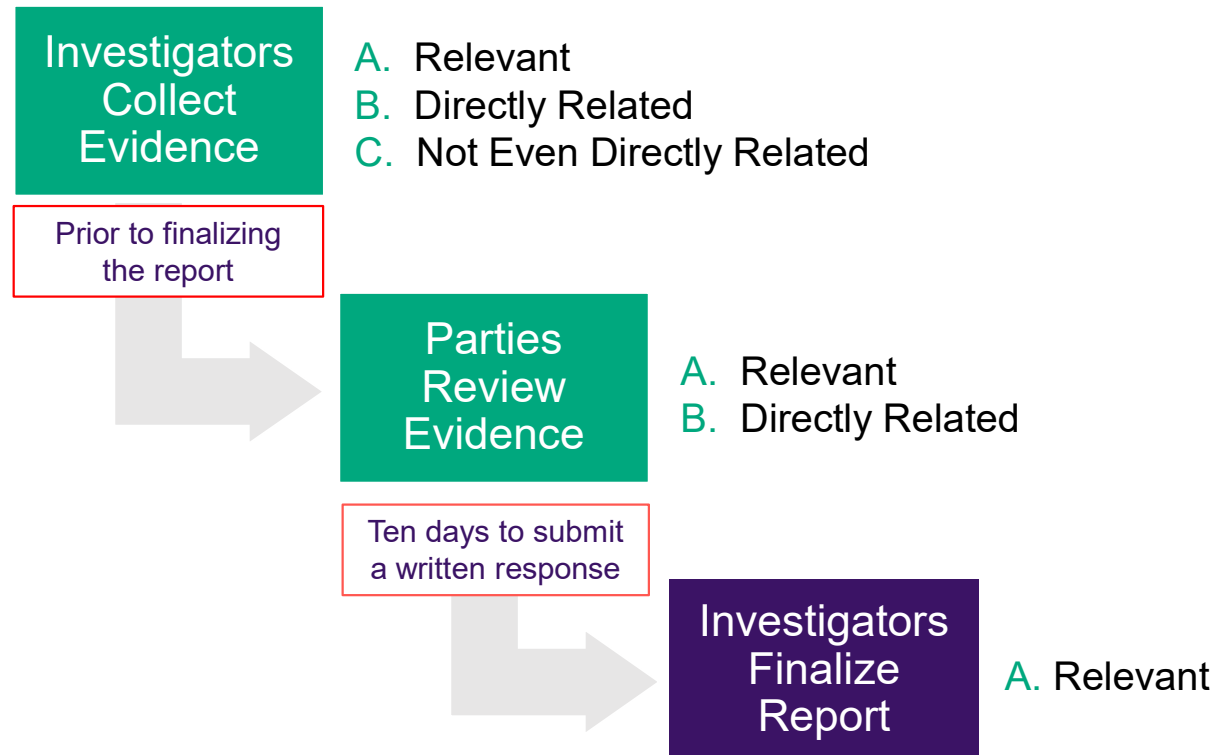
- ☐ Write-up of interview immediately afterwards
- ☐ Third person v. first person
- ☐ Prioritize information that relates to elements
- ☐ Focus on key areas where facts are disputed
- ☐ Review interview write-up with interviewee

## The Ideal Product

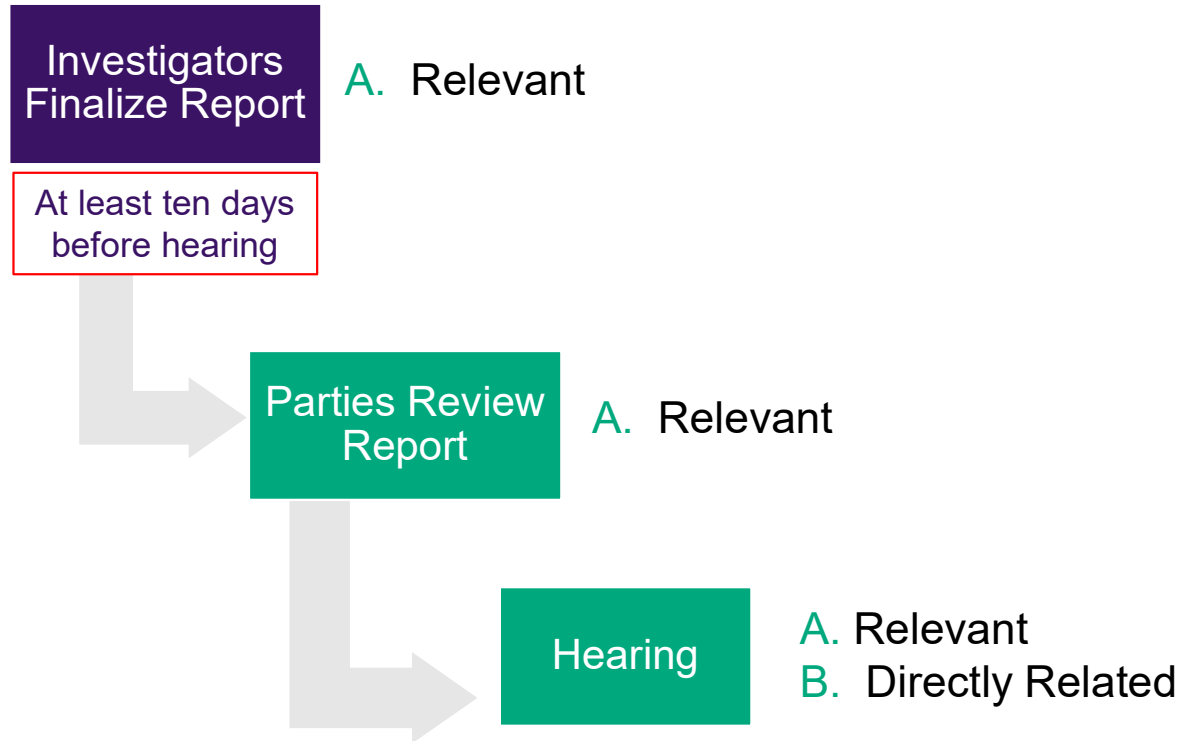
A first-person statement that:

1. Clearly and concisely tells the story
2. From the perspective of the party or witness
3. With particular focus on disputed facts and the elements of the alleged policy violation(s)
4. Without including privileged or irrelevant information

# Parties may inspect and review relevant and directly-related evidence



**The investigative  
report fairly  
summarizes  
relevant evidence**



# What do these terms mean when sorting evidence?

## Relevant

Information that makes a material fact more or less likely to be true. A material fact is of consequence to the decision at hand: Whether the Respondent should be held responsible for the alleged conduct

## Directly related

Information that has a clear relationship to the allegations at issue but does not make a material fact more or less likely to be true

## Not even directly related

Information that has no or only an indirect relationship to the allegations at issue



## General Principles of Sorting Evidence

Intent of the rules is to provide the parties with access to all the **relevant** evidence

- Philosophy: **Increased Access = Increased Fairness**
- No party should be surprised at a hearing with information that was known to the investigators but not shared with them

Parties should have access to the “**directly related**” evidence just in case

- There may be legitimate disagreements about what is relevant
- Allowing the parties to review directly-related evidence (and having the directly-related evidence available at the hearing) gives each party a chance to argue that the information **is** relevant

Schools cannot decide to categorically exclude certain types of evidence

- Character evidence, lie detector tests, expert witnesses, prior disciplinary history, etc.
- May be deemed not relevant on a case-by-case basis

## Two Kinds of Evidence are Off Limits

- Don't access, consider, disclose, or otherwise use a party's **records that are made by a physician, psychiatrist, psychologist, etc.** without voluntary written consent to do so for the grievance process.
- Don't require, allow, rely upon, or otherwise use or seek disclosure of **information protected under a legally recognized privilege** unless the privilege has been waived.

## One Kind of Evidence is Automatically Not Relevant



### THE RAPE SHIELD RULE

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant

#### Exceptions:

1. Offered to prove that someone other than Respondent committed the conduct
2. Concern specific incidents of prior sexual behavior with Respondent and offered to prove consent

In contrast, questions/evidence about **Respondent's** sexual predisposition or prior sexual behavior *may* be relevant.

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# **Investigative Report Writing**

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## NOT in the Investigation Report

- Legal jargon
- References to legal consultation
- Physical descriptions of the parties (unless directly relevant)
- Personal opinions/value judgments
- Conclusions that should be made by the decision-maker(s)



## A Simplified Approach to Report Writing

An investigative report must meet two standards

One is imposed by law: The school must “create an investigative report that fairly summarizes the evidence”

The other is practical: The report should give the decision-maker(s) (and the parties) a good understanding of the case so that they can hit the ground running, focus on the thorny issues, and make the tough decisions

Investigators aren’t really supposed to be in the business of drawing conclusions, weighing evidence, or determining whether witnesses are credible

And there’s no requirement that the report be some kind of narrative or legal brief

**Minimize writing** – with the important exception of the witness statements – and make the report a compendium of simple forms and lists

# Investigative Report Table of Contents

**Section 1** Key Data Sheet

**Section 2** Description of the procedural steps

**Section 3** Party and witness statements

**Section 4** Description of other evidence (attach or provide link), including the source and date received

Jackson Lewis University  
Title IX Office  
**Section 1: Investigative Report Key Data Sheet**

Date of report	April 22, 2022
Title IX Coordinator	Joanna Smith
Investigator(s)	Susan Friedfel and Laura Ahrens
Complainant(s)	Madison Smith, Student, Class of 2023
Respondent(s)	Jamie Jones, Student, Class of 2022
Allegation(s)	Stalking
Date(s) of alleged Incident(s)	February 28, 2022





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**Section 2: Investigative Report Procedural Description (p. 1 of 3)**

PROCEDURAL STEP	DATE/ADDITIONAL INFORMATION	DOCUMENTS (IF ANY)
Date of Formal Complaint	March 3, 2022	Tab 2.1
Notice of Allegations provided to parties	March 7, 2022	Tab 2.2
Amended notice	N/A	
Initial dismissal analysis	Completed March 11, 2022	
Initial dismissal result	Dismissed in part and referred to student conduct	Tab 2.3
Dismissal notice to parties	March 11, 2022	Tab 2.4
Dismissal appeal	Filed by Complainant on March 18, 2022	Tab 2.5
Dismissal appeal result	Denied on March 22, 2022	Tab 2.6

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**Section 2: Investigative Report Procedural Description (p. 2 of 3)**

PROCEDURAL STEP	DATE/ADDITIONAL INFORMATION	DOCUMENTS (IF ANY)
Interviews	Madison Smith – March 28, 2022	Tab 2.7
	Jamie Jones – March 29, 2022	Tab 2.8
	Carmen Escobedo – March 29, 2022	
	Akela Appleberry – March 31, 2022	
	Jonathan Irving – March 31, 2022	
Site visit(s)	N/A	
Other methods used to gather evidence	Parties/witnesses asked for electronic communications and social media posts	Tab 2.9
	Residence hall security camera footage requested from campus police	Tab 2.10

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**Section 2: Investigative Report Procedural Description (p. 3 of 3)**

PROCEDURAL STEP	DATE/ADDITIONAL INFORMATION	DOCUMENTS (IF ANY)
Relevant/DR evidence provided to parties	April 6, 2022	
Responses (due in 10 days)	Received from Jamie Jones on April 12, 2022	Tab 2.11
	No response received from Madison Smith as of April 18, 2022	
Investigative Report provided to parties (at least 10 days before hearing)	Posted to SecureView on April 22, 2022	
Responses to Investigative Report	Received from Jamie Jones on April 25, 2022	Tab 2.12
	Received from Madison Smith on April 28, 2022	Tab 2.13



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**Section 3: Party and Witness Statements**

The investigator(s) drafted each of the following party and/or witness statements after interviewing that individual. As evidenced by the party or witness signature at the bottom of each statement, each individual has reviewed their corresponding statement and confirmed its accuracy.

Carmen Escobedo.....Tab 3.1

Akela Appleberry .....Tab 3.2

Jonathan Irving.....Tab 3.3

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**Section 4: Description of Other Relevant Evidence**

This section contains a description of other relevant evidence (in addition to the party and witness statements) deemed relevant by the investigator and, where applicable, it contains that relevant evidence itself (i.e., copies of relevant documents etc.).

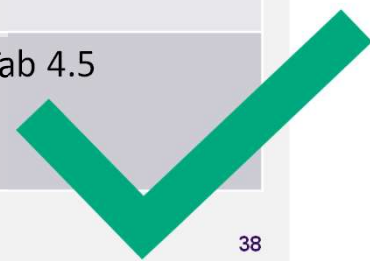
This section also contains, compiled under Tabs 4.6 – 4.12, evidence that the investigator(s) deemed to be directly related to the allegations, but not relevant.

Finally, Tab 4.13 contains a description of potentially directly related and/or relevant evidence that either does not exist, could not be located, or that the parties and/or witnesses declined to provide.

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**Section 4: Description of Other Relevant Evidence**

ITEM	SOURCE	DATE RECEIVED	DOCUMENTS (IF ANY)
Text messages between Madison Smith and Jamie Jones (from January 31, 2022 to February 15, 2022)	Madison Smith	3/22/2022	Tab 4.1
Text messages between Madison Smith and Jamie Jones (from January 31, 2022 to February 20, 2022)	Jamie Jones	3/24/2022	Tab 4.2
WhatsApp messages between Jamie Jones and Jonathan Irving (from February 1, 2022 to February 3, 2022)	Jonathan Irving	3/28/2022	Tab 4.3
Facebook Messenger messages between Madison Smith and Carmen Escobedo	Madison Smith	3/22/2022	Tab 4.4
Security camera footage from exterior of Stoddard Hall Clip 1: February 28, 2022, 9:52pm – 9:54pm Clip 2: February 28, 2022, 12:21am – 12:23am <a href="#">SecureViewLink</a>	Campus Police	3/17/2022	Tab 4.5



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# Questions?

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**Susan Friedfel**

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Thank **you.**



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